

Relaxing about Cultural Difference: Trusting our Treaty Partners

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Abstract

The theme of this paper is 'relaxing about cultural difference, trusting our treaty partners'. It will try to capture an orientation to the exercise of trust in our cross-cultural treaty relations that might dovetail with reflections on the 2005 conference's theme of 'Love, Science and Psychotherapy'. The paper will suggest that we need a 'big leap forward' in our Maori/Pakeha relations. That leap requires a vital ingredient, trust, which can only come into being on the basis of an understanding of the context, past and present, of our cross-cultural relations.

Let me start with a story.

There is a news report in the *New Zealand Herald* (incorporating *Southern Cross*) of March 1933 of a hui celebrating 92 years since the 1841 landing of Governor Hobson at Okahu Bay. He had been greeted and provided with land by Ngati Whatua on his journey to establish this nation's capital in Auckland. At that 1933 hui were two elderly kaumatua in their 90s, both of whom had been present at the original occasion with Hobson. Also present was a young boy, just six years old, whose birth name was Ian Hugh Paora. At the age of two, exercising their ancient prerogative, his elders had renamed him as Ian Hugh Kawharu after Paora Kawharu, his great grandfather and a 19th century Ngati Whatua chief. Today he chairs the Ngati Whatua o Orakei Maori Trust Board.

This little vignette captures a microcosm of our nation's joint history. So fresh is the writing on the Treaty that there are some alive today who directly knew people who were present (even as young children) circa 1841. And there are customs practised today, such as naming children after ancestors, which date from well before the Treaty. So when some of us talk of the Treaty as 'that was then and this is now', it is worth reflecting on what we are saying. The 'then' and the 'now' are inextricably joined.

The relative immediacy of the Treaty-signing is our great national advantage. In many countries, 160 years is a blip on the radar. Having something of a long view about this will be helpful. Because after 30 years of Tribunal hearings it is now indisputable that the protection of te tino rangatiratanga (chiefly authority exercising trusteeship) as guaranteed under Article 2 has, in historical terms, been adjudged seriously flawed. The evidence abounds. The jury is no longer out.

Need we fear rangatiratanga?

To understand something of the difference in view than can exist between Maori and Pakeha we need to talk about rangatiratanga. This is a subject that often makes many New Zealanders uncomfortable, even irritable. It need not be so. My view is that if more of us had a reasonably simple Treaty based understanding of the protection of rangatiratanga it would free us up to imagine how we might achieve better social and economic outcomes for all New Zealanders, not just Maori.

So let me explain the relevance of te tino rangatiratanga in the context of our founding document, Te Tiriti o Waitangi/The Treaty of Waitangi. The Treaty has a preamble and three articles. Articles 1 (one law for all) and 3 (common rights of citizenship) are now intuitively understood by all New Zealanders.

It is Article 2 that so vexes both Pakeha and Maori. It was the classic Treaty trade-off article. Maori hapu and iwi rangatira (chiefs) who signed the Treaty did so acknowledging a new legal framework (Article 1) and endorsing the citizenship rights of new migrants (Article 3). But they did so only because they were guaranteed protection of their te tino rangatiratanga (chiefly authority to exercise their trusteeship over their taonga, sacred treasures, meaning resources both material and non-material, both human and non-human). The key word is protection and what was guaranteed protection are the rights of the collective, not individual rights.

Herein lies a central dilemma for Pakeha, indeed all tauiwi.

If those opposed to the Treaty deny the obligation to protect rangatiratanga, we must ask the question; how did we manage to get here? For it was precisely by exercise of this collective rangatiratanga (on behalf of their tribal groups) that the chiefs consented to being a party to the Treaty with the British sovereign. Without explicit recognition of this rangatiratanga in return for a single legal structure (Parliament) and citizenship in common a Treaty could not have been agreed in the way that occurred.

As tauwiwi we have an obligation to protect rangatiratanga (Article 2), because it explicitly provided us with the corresponding right of citizenship (Article 3) of this country. Clearly a subsequent denial of this legitimacy is not what any of us want.

Now it is evidentially clear that Maori collective rights under Article 2 protecting the exercise of their rangatiratanga have for over a century prior to 1975 been largely ignored by the Crown, or dealt with remotely, through the Courts. Their presence has not therefore resided in the hearts and minds of our received Pakeha historical consciousness with anywhere the same force as they reside for Maori.

So therefore as a nation, when like last year, we came to pass judgement on the nuances of an issue like the foreshore and seabed debate the Pakeha mind went to the rights, privileges and obligations of individuals and assumed this included Maori as well. Conversely the Maori mind went to the rights, privileges and obligations of collectives, and for Pakeha this counted as an extra, a benefit not available to themselves, a second bite of the cherry.

Perhaps it is not surprising therefore, that Pakeha started to feel that Maori were getting one over them. But are Maori to blame for this sense of imbalance?

When we recognise the evidential truth about the denial of collective rights we become alert to a question that is central to our future national identity. It's a question, some would say, of profound moral dimensions.

Let me put it like this. Having settled claims for past injustices, how and why should we recognise Maori collective rights (and obligations) into the future? In particular, how do we recognise that Maori may see the world in crucial ways that are different from Pakeha and other tauwiwi and how might we relax sufficiently to integrate this 'other view' into our national view of ourselves?

We need to be clear-headed about this.

If Maori have been systematically disenfranchised of their Article 2 rights (and therefore unable to fulfil their obligations) then the benefits of that dispossession have, by definition, gone to those who are not Maori. Clearly nobody alive today (either tangata whenua or tauwiwi) can be blamed for allowing such historical dispossession to occur, or be held responsible for making good the loss. That is why we have invented the Waitangi Tribunal. It is our way of ensuring that the State bears the responsibility on behalf of us all for both acknowledging and remedying the wrong done. By international terms, this is an unprecedented solution of genius proportions, but it meets only half the challenge.

The other aspect of the moral challenge is precisely to resist the 'that was then and this is now' scenario. Why should we need to do this? Not simply because it is an insular and barren response to creating an informed and inclusive nationhood, but because it won't work. The clear truth is that on the Maori side of our population, the renaissance is underway. Maori are making gains as individual citizens in every aspect of public life and the rate of improvement is accelerating.

Celebrating manawhenua

Just as crucially, gains in collective or tribal identity are also being established. Herein lies a key understanding for Pakeha and the Crown in this process. This is all about the recovery and affirmation of manawhenua (tribal authority within a region).

When Ngai Tahu began its Treaty negotiations in the mid-1980s, they claimed 6000 identified beneficiaries linked by known whakapapa (ancestral connection). Today they have over 30,000 on their list. Quite possibly these people are simply attracted by potential dividends. But it is more likely that the rising profile of their tribal administration regarding their Treaty claim and pride over their substantial financial success has made it positive once again for Ngai Tahu people to identify with their own iwi roots.

This is not farfetched. In February this year I spoke at a conference in Alexandra in Central Otago. Two speakers thanked me, both eloquent and gracious. One, a Pakeha pensioner, said he had met only one Maori during his school days. The other, a young Maori in his 30s, commented that Maori made up 12 per cent of the population in the Southland district. Such is the gulf in cultural perception across generations of New Zealanders.

Today's reality is that South Island Maori are no longer invisible. Their profile is being transformed through the exercise of rangatiratanga by the newly constituted Ngati Tahu tribal administration. Crucial to this is their identification of their manawhenua status over their traditional tribal areas.

This is where the claim process has been so useful to Maori. No longer are they excluded from resource management issues or without representation on various government agencies. They now have a degree of State and public recognition as a tribal collective (iwi) that they have not experienced for over a century. They are present when decisions are being made and, like it or not, their collective voice is getting a hearing and is being considered. To exclude their collective

voice is no longer politically tenable or legally possible. Their successful Treaty settlements enshrine by Act of Parliament their manawhenua status for future dealings with the Crown. It can't be dismissed.

And this same effect is being felt in every area where tribal groups have resolved their claims with the Crown. Over the next generation as final claims are signed off, this will be true for the whole of New Zealand. For those irritated by the realisation that their old mate Stephen has suddenly become Tipene, consider first the details of the Ngai Tahu story as documented in their claim. Any thoughts of contemporary opportunism need to be carefully weighed with the historical fact of near cultural extinction. A less jaundiced judgement might suggest this is time to celebrate the genuine recovery of cultural identity and to be jointly proud of it, as a nation.

But what's in it for the rest of New Zealand? Quite a bit, actually. The sorry facts are that Maori, notwithstanding their cultural renaissance, are still at the bottom in a whole raft of adverse social statistics. They represent in many Pakeha minds a threatening underclass, capable of destabilising our march toward increasing prosperity. In many areas of our public life, business, crime and politics, Maori appear more often on the radar as a risk to be managed, than as an opportunity to be embraced. The most public exception to this is sport, where precisely the opposite is true.

How do we address and possibly reverse much of this negative reality, and what relevance has Article 2 to this reversal? It is very significant but if all New Zealanders are to experience the benefits of a confident and resurgent Maori population Pakeha need to trust that our Treaty partners can have their own answers to the challenges they face and support the strategies they adopt for this purpose.

Is kaupapa Maori the way forward?

Looking at the development of kaupapa Maori (Maori for Maori) processes is one of the answers. At crude level many non-Maori New Zealanders find this idea offensive. It suggests separatism, ethnic preference. Or worse, an exclusion of ourselves.

We need to stand back from this gut-level reaction and consider the evidence. Most existing kaupapa Maori services do include non-Maori as part of their client base. Their numbers are often a critical part of their financial viability. They are not ethnic-exclusive.

Further, we need to be careful not to miss a key point. If we continue to do what we do at the moment, and to fail as we currently fail, should it not be obvious to ask for a different approach? The answer is not further welfare penalty, taking away for adoption babies from young mothers and fathers who have been sexually careless, or imposing harsher penalties or longer sentences for crime. For Maori at least, one answer must be to seek solutions within collective Maori frameworks resourced 'to own the problem'.

If today we took a sophisticated view about applying our Treaty understanding of Article 2, we might decide that support for kaupapa Maori approaches is an unfulfilled obligation which we owe our Treaty partners, and that we would be better off resourcing them to get on with it. I am talking here about covering the full range of public interventions: social services, health services, children's services, family services, crime prevention, education and welfare. In short, the whole gamut of activities we describe as support service delivery in New Zealand.

There ought to be options for kaupapa Maori service delivery in all these areas, and they ought to be sustainably resourced.

However, there must be a balance. That balance relates to the *quid pro quo* of such a deliberate policy departure. There can be no recognition of *mana* (authority and control) without the requirement for *manaakitanga* (obligation to provide consideration for others).

Intrinsic to the resourcing of the exercise of *rangatiratanga* is the requirement for *utu*: a reciprocity from *iwi* that involves not only the competent, accountable and efficient delivery of the services, but which exhibits *full and collective* ownership of the problems being addressed. This kind of concept goes beyond the notion that social miscreants are solely the masters of their own destiny, or that risks and rewards are the same for everyone, no matter what their history. The empirical evidence is overwhelming that this is simply not true.

For too many Maori, the historical reality of collective tribal decimation is a profound psychological counter to the idea of a 'level playing field' for all. Recovery of that collective centre, by knowing who you are and where you belong, increases the chances of personal cultural coherence. Thus, providing options that Maori *iwi* and *hapu* can deliver for their own people goes to the heart of the personal search for collective belonging.

This is not a short-term exercise but a profound reorientation of the way as a nation we deal with the issues that undermine our national unity and prosperity. This kind of thinking is not foreign to us.

The parallels with State aid for private schools

In the early 1970s the Catholic population was agitating for state aid for private schools. Their argument was not unlike what I am proposing here. In effect, Catholics were saying that it was not appropriate to insist that the 'special character' of their schools was a matter of personal belief, and therefore outside the requirement for public support. They wanted the power and control to educate their children within their own accepted 'meaning system' and to have that supported by the State. They argued that Catholics paid their taxes like any other people, and were now effectively paying twice for their children's education which, for the best part of a century, was not supported by government money.

Critics attacked the policy as preferential treatment for Catholics. The Catholics responded by saying that it was a century of religious exclusion that had prevented them from being resourced to run their own schools as should always have been their right. In the event, the argument succeeded. The Crown and Catholic education authorities negotiated a settlement that allowed for the 'integration' of their schools so as to have the same funding as State schools, in return for agreed restrictions to the proportion of non-Catholics pupils on the roll. This assuaged in good measure the lobbyists from the public system who were opposed to the new policy, for fear it might undermine the roll numbers at their own schools. Today Catholic school waiting lists are long as people are attracted to the coherent 'meaning system' of that tradition.

One might ask, if this kind of thinking and flexibility in policy is good enough for a religious minority, might it not also be appropriate for a Treaty partner?

Pakeha might fairly be suspicious about such a systematic departure. Many New Zealanders are all too familiar with the media reports of Maori provider failure in many areas, of fraud committed against Trust Boards or individuals acting in their own interests to the detriment of the collective. The face of drug and alcohol abuse and personal violence is often seen as Maori. So too, family dysfunction is perceived as disproportionately a Maori problem.

Many Maori don't trust their own iwi/hapu service delivery because they see incompetence, minimal confidentiality, self-interest for private gain, poor staff relationships, personal aggrandisement or even inter-tribal prejudice. Often there is little confidence in the leadership. So much so, they would rather receive their services from outside the tribal constructs. And they should be able to do just that. This is not about narrowing the choice for Maori but about increasing the possibilities for successful intervention, no matter what the medium.

However, the picture of successful Maori service delivery is far from bleak. There are health and education providers and commercial operations which are among the top in their field. Ngati Porou Hauora runs all health services on the East Coast, inclusive of secondary hospital services, and is accredited nationwide to the highest standards. Mai FM, commercial radio owned by Te Runanga o Ngati Whatua is this country's highest rating music station. It is operating in a fiercely competitive radio market that is dominated by two multinationals. With a fraction of their capital base it has captured the youth market in Auckland. Likewise Ngai Tahu has shown huge financial acumen in its business activities, making it one of the highest performing corporates in New Zealand. Maori incorporations are some of the highest-achieving farming businesses we have.

Te Wananga o Aotearoa, while the subject of much controversy and adverse scrutiny, has had stellar success with the introduction of Maori to tertiary-level education, and its promotion of te reo Maori has been second to none in our educational institutions. No other tertiary institution has achieved such levels of take-up by Maori of tertiary educational options in the whole of our educational history. It would be wrong to ignore its impact on Maori whilst aspects of its financial stewardship are being criticised.

This is not a rosy view. For every first rate success, there are many failures. But the frequency of those failures is not helped by the 'ambiguous climate' in which many organisations operate. I have seen Maori organisations asked to 'tone down' their Maori analysis so as not to frighten the horses, most often the Crown funding agency. I have never seen this happen to Pakeha organisations. It is as if the support for the Maori collective approach is acceptable, provided the funder doesn't become agitated. Thus Article 2 exploration of rights is permissible, provided you whisper. If you shout, the money dries up.

There are also massive Maori skill deficits in all sorts of critical areas. Not least, in tikanga Maori. Consider for a moment the 40 years lost for Ngati Whatua o Orakei in Auckland between the burning of its marae in 1951 and the passing of the 1991 Act which gave Bastion Point back to them. In that period nearly two generations of tikanga practice was relegated to private garages for tangi, and there was almost no public engagement with both the State or other Maori iwi or hapu. The ability to host hui nearly disappeared. Only the resilience of the people retained the vestiges of their cultural taonga (sacred treasures). The fact that they are fully functional in their Ngati Whatuatanga (Ngati Whatua cultural behaviour and custom) is a minor miracle. Yet the recovery of their cultural practices gives vital confidence to their programme of collective revitalisation.

It is the very underpinning of their restoration. They are actively training their own people for the task of self-management ahead of them, and second best is not a concept that will sit easily with this hapu.

The message from this experience is straight-forward. We simply have to get beyond the scandal value of supposed preferential funding for Maori, just as the argument for funding of integrated schools for both Catholic and non-Catholic alike was eventually accepted. Our arrival point must be a mature understanding of the benefits of affirmation of Article 2. We need together, Maori and Pakeha, to determine in our public affairs how support for rangatiratanga can be applied in contemporary terms. And that requires a national leap of faith, a trust in our mutual competence to do what is right.

It is my view that if Maori are appropriately resourced and collectively agree to take ownership of the problem caused by historical social and cultural dislocation, the chances of an enduring solution increase exponentially.

This is a journey. There is no one answer and in some circumstances Maori may say 'we cannot do what you ask of us because the capacity that exists among our tribal collective (iwi) at present to "own the problem" does not exist.'

But I am confident that the overwhelming response from Maori will be to tackle the challenge. Released from the constant burden of having to convince the State of recognition of their rangatiratanga, Maori will mobilise to address the root causes of the social underclass that so vexes us. This will be a long process. My experience with Ngati Whatua o Orakei after the return of Bastion Point suggests that within fifteen years we will be able to identify clear and positive progress. Within a generation we will see transformation.

Resources for the journey ahead

How difficult is this journey? Fortunately our resources are substantial to meet this challenge. A national inventory of our advantages may be useful.

We have a huge **historical** base to now draw on. This is a great advantage, provided we see it reflected in our school system. The challenge for the 21st century school-age child is to have a grasp of the new history written in the last 30 years, by historians and through the Tribunal process. By not knowing our history, we got ourselves into strife in our race relations. We don't have to repeat the mistake.

We are in the midst of an **economic** boom of sustained proportions at present. The rates of Maori unemployment are at an all-time low since pre-1970. There is more social housing and health care aimed at improving Maori life span than ever before. Maori entry into business, entrepreneurial activity and self-employment is at an all-time high. With surpluses at record levels, the opportunity intentionally to realign the delivery of public intervention for Maori is fundable as never before.

The level of **social awareness** around the issues of Treaty application is rising rapidly. After Dr Brash's 2004 Orewa speech there was an initial outbreak of Pakeha angst that support for Maori had gone too far. Longer reflection on this is changing people's minds. There is, in my experience, a willingness to get to the heart of this matter. The discussion has opened us up and the reflections are promising. We are becoming more informed and better equipped to deal with the wider issues.

There is a **cultural renaissance** of Maori, largely supported and appreciated by non-Maori. We sing our national anthem in Maori and English without reserve. Our Maori artists, filmmakers, commercial and sporting heroes are now representative of 'more of us' than ever before. There are record numbers of Maori members of parliament and a new Maori party is an expression of a self-confidence not seen previously. Our cultural processes are adapting, as the response to last year's hikoi so eloquently demonstrated. We are discovering ways of being a New Zealander that are not solely Maori or Pakeha, but an amalgam of the two.

Similarly there are now **successful working models** of the way things can be done. The kohanga reo movement demonstrates a competently run te reo (Maori language) pre-school service. Where it struggles are in the same areas where the education department struggles with general programmes, where scale is small and expertise is scarce on the ground. There are Maori public health programmes that focus on smoking cessation that are achieving substantial gains with at-risk Maori mothers. Maori language television after a shaky start is well launched. Without question it will need lots of support to sustain vigour, audience reach and programme excellence. It has substantial commercial challenges but in comparison, it requires from the government only a fraction of the resource provided to State run television when it began.

For all our difficulties, there is something approaching **political fairness** in Aotearoa/New Zealand. It is more of an orientation than a fully achieved reality but it is there. The foreshore law may be flawed but it represents a

genuine attempt, albeit incremental, to recognise that there needs to be a way of accommodating the competing aspirations of different parts of our nation. To the extent that the Act represented the fruit of a kind of ‘political panic’ about race relations it showed how far we have still to go, to be confident and trust each other cross-culturally. But to leave it at that would be to ignore the fact that the legislation did attempt to address customary practices that did not derive from English Anglo-Saxon roots. We can all count that a minor triumph of national self-confidence.

The decision to create the Waitangi Tribunal in 1975 and to extend its brief in 1985 to address grievances dating from 1840 was an act of enormous **courage and insight**. This represents a milestone in our history, comparable to the Treaty signing itself, the right of women to vote and the creation of the welfare state. This is an achievement without parallel in the world. It is incomprehensible that a people with this much good sense, intuitive courage and such insight into the healing of human affairs related to its indigenous people will lose its nerve when confronting new challenges on this path. We now have a legacy of direct dealing even when faced with the painful truth, and we are the stronger for it.

Finally and importantly, we have **time**. Our 160 years since Treaty signing is indeed a blip on the radar of history, including our own. If we understand New Zealand to have been occupied since 1300 CE then our difficulties with the Treaty have been only in the most recent quarter of this occupation. This is not too far gone to remedy.

I began this paper with a call for a big leap forward in our Maori/Pakeha relations. This is underpinned by trust between the parties or undermined if such trust is not present. Let’s pick up on the challenge. Indeed, if the generation since 1975 may be described as the ‘Treaty truth-telling’ generation, let the next be the ‘Treaty fulfilment’ generation.

Undoubtedly, we will all be better off for it.

Some Maori terms used in this paper

hapu sub-tribe of an iwi

hikoi step, journey, can be deputation in support of an issue or for a defined purpose

iwi tribal grouping based around common ancestors

kaumatua senior Maori elder

kaupapa Maori Maori purpose or objective, often described as 'Maori for Maori'

kohanga reo full immersion Maori language pre-school

kura kaupapa full immersion Maori language primary and secondary school

mana honour, dignity, respect deriving from authority and control

manaakitanga obligation to offer appropriate hospitality, consideration for others

manawhenua tribal authority within a region (**rohe**)

marae meeting place, locus of tribal mana

Ngati Whatuatanga the practice of Ngati Whatua cultural behaviour and custom

Pakeha descendants of settlers from Britain and Europe

papakāinga tribal homelands

rangatira chiefly person

rangātiratanga chiefly authority exercising their trusteeship over taonga, **rohe** tribal region

taonga sacred tribal treasures both material and non-material

Tamaki Makaurau Auckland isthmus

tangata whenua Maori, first people of the land (modern)

tangi, tangihanga ritual farewell of the dead, funeral wake

tauiwi descendants of all non-Maori, includes Pakeha and new migrants

te reo Maori language

tikanga cultural manners, beliefs, practices

tuku rangatira a chiefly gift

urupa burial sites, cemetery

utu reciprocity, balancing of debt, benefit and obligations; can also be revenge

whakapapa genealogy by ancestral connection

whenua land

whenua rangatira noble/chiefly land, undisputed ownership and control